

AMENDED IN SENATE APRIL 19, 2004

AMENDED IN SENATE APRIL 1, 2004

AMENDED IN SENATE MARCH 16, 2004

AMENDED IN SENATE MARCH 1, 2004

SENATE BILL

No. 1149

Introduced by Senator Ortiz
(Coauthor: Senator Murray)

January 26, 2004

An act to add and repeal Sections 4001.2 and 4001.3 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1149, as amended, Ortiz. Dangerous drugs: Canadian pharmacies: foreign suppliers.

Existing law, the Pharmacy Law, establishes the California State Board of Pharmacy and makes it responsible for licensing and regulating pharmacy practices, including the furnishing of dangerous drugs, as defined.

This bill would require the board to develop and disseminate information identifying pharmacies in Canada that meet recognized standards for the safe acquisition, shipment, handling, and dispensing of dangerous drugs to California residents. The bill would also require the board to collect, publish, and post on an Internet Web site information concerning suppliers of dangerous drugs that are located and operating outside of the United States that have violated safe shipment, handling, and processing standards. The bill would repeal its provisions on January 1, 2008.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds all of the following:

2 (a) Prescription medications are an essential part of health care
3 delivery and have contributed to increasing the life expectancy of
4 patients and treating their diseases and conditions.

5 (b) Despite this, due to the high cost of prescription
6 medications, many Californians, especially elderly, disabled, and
7 low-income persons, face difficulty accessing the medications
8 they need to maintain their health.

9 (c) As one means of accessing affordable prescription
10 medications, increasing numbers of Californians are purchasing
11 prescription medications from foreign countries, in many cases
12 through an Internet Web site.

13 (d) California consumers currently have few ways of
14 determining which outlets and suppliers of prescription
15 medications in foreign countries are safe and reliable, particularly
16 those offering their products through an Internet Web site.

17 (e) Canadian pharmacies that are licensed by the provinces in
18 which they are located generally meet safety standards for the
19 acquisition, distribution, and dispensing of prescription
20 medications that are as stringent as those in California.

21 (f) In order to help ensure access to prescription medications,
22 there is a need to provide consumers with information about safe
23 and reliable Canadian pharmacies and about fraudulent and unsafe
24 suppliers or outlets of prescription medications whose practices
25 may potentially harm consumers, and there is a need to assist
26 consumers in making informed choices for obtaining prescription
27 medications for their health care needs.

28 SEC. 2. Section 4001.2 is added to the Business and
29 Professions Code, to read:

30 4001.2. (a) The board shall develop and disseminate
31 information identifying Canadian pharmacies that have
32 established that they meet recognized standards for the safe
33 acquisition, shipment, handling, and dispensing of dangerous
34 drugs to persons in California. As part of this requirement, the
35 board shall establish an interactive Internet Web site that links



1 consumers to, or provides information about, Canadian
2 pharmacies that the board has determined meet recognized
3 standards for the safe acquisition, shipment, handling, and
4 dispensing of dangerous drugs to persons in California.

5 (b) For the purposes of this section, a Canadian pharmacy that
6 meets recognized standards for the safe acquisition, shipment,
7 handling, and dispensing of dangerous drugs means a pharmacy
8 that is located in Canada and meets all of the following
9 requirements:

10 ~~(1) Is licensed by the province in which it is located.~~

11 ~~(2)~~

12 *(1) Is licensed as a pharmacy by the province in which it is*
13 *located and its license is not revoked, suspended, or subject to*
14 *other disciplinary action.*

15 *(2) Notifies the board within three business days of any change*
16 *in its licensure status and any pending disciplinary action against*
17 *it.*

18 (3) Is accredited or eligible for accreditation by the Internet and
19 Mail Order Pharmacy Accreditation Commission or is a member
20 of the Canadian International Pharmacy Association.

21 ~~(3)~~

22 (4) Meets the requirements for licensure by the board as a
23 pharmacy.

24 ~~(4)~~

25 (5) Does not require a consumer to sign a waiver of liability or
26 a release of liability for a negligent act by the pharmacy.

27 (6) *Requires a valid prescription from a physician and surgeon*
28 *licensed to practice in the United States before selling the*
29 *prescribed drug.*

30 (7) *Maintains a service department to respond to all consumer*
31 *inquiries.*

32 (8) *Discloses, on its Internet Web site and in packaging*
33 *accompanying any shipped drugs, that the consumer may file a*
34 *complaint regarding the pharmacy with the relevant Canadian*
35 *provincial licensing authority and with the pharmacy, and*
36 *provides the contact information for filing the complaint.*

37 (9) Does not furnish any of the following types of drugs:

38 (A) Narcotics and other controlled substances.

1 (B) Drugs for which there is no equivalent drug approved for
2 sale in the United States by the federal Food and Drug
3 Administration.

4 (C) Drugs that are not approved by the Canadian Therapeutic
5 Products Directorate for sale in Canada.

6 (D) Drugs that require refrigeration or that cannot be safely
7 shipped by mail.

8 (10) Ensures that all physicians and surgeons, pharmacists,
9 and technicians in its employ are properly licensed according to
10 Canadian laws and their licenses are not revoked, suspended, or
11 subject to other disciplinary action.

12 (11) Complies with all personal health and medical
13 information privacy laws applicable to a pharmacy located in
14 California.

15 (12) Does not exceed the prescribed amount and does not
16 exceed a three month supply of the prescribed drug.

17 (13) Complies with all Canadian laws applicable to furnishing
18 drugs.

19 (14) Does not furnish a drug if the consumer indicates he or she
20 has not previously taken that drug.

21 (15) Does not repackage the drug from the original packaging
22 by the drug manufacturer unless required to dispense the
23 prescription or to package the drug at the consumer's request in
24 a childproof container.

25 (c) This section shall remain in effect only until January 1,
26 2008, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, 2008, deletes or extends that date.

28 SEC. 3. Section 4001.3 is added to the Business and
29 Professions Code, to read:

30 4001.3. (a) The board shall collect, publish, and post on an
31 Internet Web site created pursuant to Section 4001.2, information
32 concerning suppliers of dangerous drugs that are located and
33 operating outside of the United States that have been found to have
34 violated recognized standards for the safe shipment, handling, and
35 processing of dangerous drugs.

36 (b) In carrying out this section, the board may rely on
37 information made available by regulatory and law enforcement
38 bodies, including, but not limited to, the federal Food and Drug
39 Administration, the United States Customs Service, prescription
40 drug regulatory bodies of foreign countries, the Attorney General,

1 the United States Department of Justice, the boards of pharmacy
2 of other states, and the National Association of Boards of
3 Pharmacy.

4 (c) The board is not required to conduct surveillance activities
5 or its own investigations in order to carry out the requirements of
6 this section, but is authorized to engage in those activities to the
7 extent its resources permit.

8 (d) This section shall remain in effect only until January 1,
9 2008, and as of that date is repealed, unless a later enacted statute,
10 that is enacted before January 1, 2008, deletes or extends that date.

